

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT H. KOONS, JR. and SALLY KOONS, his wife,	:	CIVIL ACTION
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	JURY TRIAL DEMANDED
PIEDMONT HAWTHORNE AVIATION, HAWTHORNE:	:	
A-B-E, INC., n/k/a HAWTHORNE AIRPORT	:	
SERVICES, INC., and PIEDMONT HAWTHORNE	:	No. 02CV2739
HOLDINGS, INC.,	:	
	:	
Defendants.	:	

**PLAINTIFFS' MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFFS' MOTION IN LIMINE TO PRECLUDE
THE INTRODUCTION OF THE CESSNA AIRCRAFT COMPANY'S ACCIDENT
INVESTIGATION/MISHAP REPORT**

Defendant Piedmont has listed as a trial exhibit, Exhibit D80, which is the Cessna Aircraft Company's investigation/mishap report of this crash. This accident investigation report was prepared by respective Cessna employees. The report was made and prepared to defend Cessna in any litigation arising from this accident. The report was also made in connection with a National Transportation Safety Board (NTSB) investigation. The report is replete with statements made out of court and which Piedmont will use for their truth. Thus, they are hearsay and should be precluded. See Pa. R. Evid. 801, et seq.

In addition, the findings in the report invade the province of the jury. Moreover, the report is an attempt to back-door undisclosed expert and opinion testimony without proper expert disclosure pursuant to the court's scheduling order.

Lastly, the prejudicial impact of this report greatly outweighs any probative value that can possibly be gleaned from the substance of the reports. The danger of unfair prejudice,

confusion of the issues, misleading of the jury, and presentation of cumulative evidence should preclude the admission of these exhibits. Fed. R. Evid. 403.

CONCLUSION

The Cessna Accident Investigation/Mishap Report contains hearsay, was prepared by a party to this action, inappropriately attempts to offer expert or opinion testimony and its probative value cannot begin to outweigh its prejudicial effects. The report should be precluded.

Respectfully submitted,

WOLK & GENTER

BY:

Arthur Alan Wolk, Esquire
Attorney I.D.: 02091
Christopher J. Cerski, Esquire
Attorney I.D.: 89611
1710-12 Locust Street
Philadelphia, PA 19103
(215) 545-4220
Attorneys for Plaintiffs